

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

Retail Access Optimization Initiative, 2011)
_____)

Docket No. N2011-1

CENTER FOR STUDY OF RESPONSIVE LAW,
MOTION FOR ACCESS TO NON-PUBLIC INFORMATION IDENTIFIED
AS USPS-LR-N2011-1/NP1, and USPS-LR-N2011-1/NP2
(August 29, 2011)

Pursuant to 39 CFR 3007.40 and Rule 21 of the Commission's Rules of Practice and Procedure, the Center for Study of Responsive Law (CSRL) hereby moves for access to Postal Service materials filed in the Non-Public Annex of this docket as Library References USPS-LR-N2011-1/NP1, Nonpublic Material Related to Postal Location "Nearest-Neighbor" Calculation and Results; and USPS-LR-N2011-1/NP2, Nonpublic Material Related to Revenue Distribution and Single Stamp Sale Analyses. The Postal Service submitted Library References USPS-LR-N2011-1/NP1 and USPS-LR-N2011-1/NP2 on July 27, 2011, accompanied by an Application for nonpublic treatment applicable to both library references. Since the Postal Service relies on the same Application for Non-Public Treatment and the same rationale for protecting both sets of nonpublic materials. Therefore, in the interest of using the resources of the parties and the Commission efficiently, this Motion seeks access to both sets of nonpublic material.

In its Application, the Postal Service states that Library References USPS-LRN2011-1/NP1 and UPSP-LR-N2011-1/NP2 contain "commercial information of the Postal Service, such as facility-specific walk-in-revenue at thousands of facilities throughout the country, as well as disaggregated walk-in revenue for selected locations."¹ The Postal Service claims that if this information were publicly disclosed it "would enable competing companies to use the information to assess market potential for establishment of competing mail and parcel stores"² and requests that these materials "be withheld from any person who has not agreed to the Commission's standard confidentiality requirements, including any person involved in competitive decision making for any entity that might gain competitive advantage from use of this information."³ While it is true that commercially sensitive information, if disclosed to competitors, could result in commercial harm to the Postal Service, the CSRL is not a competitor and poses no risk to the commercial success of the Postal Service.

¹ Notice of United States Postal Service of Filing of Initial Library References and Application for Non-Public Treatment of Materials at 3 (July 27, 2011).

² Id.

³ Id. At 4.

The CSRL was founded by Ralph Nader in 1968 as his principal office. The CSRL is a nonprofit organization, based in Washington, D.C. It has sponsored a wide variety of books, organizing projects, litigation, and has hosted hundreds of conferences focusing on government and corporate accountability. In that time, the CSRL has produced a report, a book, and a law review concerning the U.S. Postal Service.⁴

One of the CSRL's primary goals is to empower and represent citizens. The CSRL focuses on a variety of environmental, consumer and worker health and safety issues. The CSRL has conducted research and educational projects to encourage the political, economic, and social institutions of this country to be more aware of the needs of the citizen-consumer. CSRL thus has a substantial interest in the issues raised by the retail access optimization initiative and the proposed changes.

The changes proposed in this docket could have a significant impact on consumers. The CSRL itself is a user of the mail and the CSRL has produced a variety of material designed to assist consumers of government services and products. Accordingly, CSRL has intervened and will participate actively in this docket. CSRL also intends to submit rebuttal testimony. Parties should be entitled to the material relied on by the Postal Service to evaluate facilities for closure. In addition, examination of this material may enable parties to challenge Postal Service assumptions and findings impacting the evaluation of facilities for closure. We believe that the information presented in USPS LR- N2011-1/NP1 and USPS-LR-N2011-1/NP2 will facilitate preparation of our rebuttal case, possible cross examination of postal witness James J. Boldt, and our arguments on brief at the conclusion on this case.

In accordance with 39 CFR 3007.40(b), the following CSRL representatives have completed a Statement of Compliance with Protective Conditions Certification, found in Appendix A to Part 3007 of Title 39 of the Code of Federal Regulations, for Library References USPS-LR-N2011-1/NP1 and USPS-LRN2011- 1/NP2:

John Richard
Center for Study of Responsive Law

Jeffrey Musto
Researcher, Center for Study of Responsive Law

A copy of each Certification is attached hereto. The original Certifications will be filed with the Commission today. Persons identified by the Postal Service pursuant to Section 3007.2(c) have also been provided with a copy of this Motion and accompanying certifications today by email.

⁴Conkey, Kathleen. *"Postal Precipice: Can the United States Postal Service Be Saved?"* Center for Study of Responsive Law. Published March 1, 1983. 515 pages.

Belluck, Joseph W. "Comment: Increasing Citizen Participation In U.S. Postal Service Policy Making: A Model Act to Create a Post Office Consumer Action Group." *Winter, 1994, 42 Buffalo L. Rev. 253*

Shaw, Christopher W. *"Preserving the People's Post Office."* Published by Essential Books 2006. 250 pages.

Conclusion

For the forgoing reasons, CSRL respectfully requests that access to Library References USPS-LR-N2011-1/NP1 and USPS-LR-N2011-1/NP2 be granted to the above named individuals.

Respectfully Submitted,

Jeffrey Musto
Center for Study of Responsive Law

Statement of Compliance with Protective Conditions

The Postal Service has filed non-public materials identified as **USPS-LR-N2011-1/NP1** in Commission Docket No. **N2011-1**. The Postal Service requests confidential treatment of the materials (hereinafter “these materials”).

The following protective conditions apply to these materials identified as **USPS-LR-N2011-1/NP1** by the Postal Service. Each person seeking to obtain access to these materials must agree to comply with these conditions, complete the attached certifications, and provide the completed certifications to the Commission and counsel for the Postal Service.

1. Access to these materials is limited to a person as defined in 5(f), 39 CFR 3001.5(f), or an individual employed by such person, or acting as an agent, consultant, contractor, affiliated person, or other representative of such person for purposes related to the matter identified as **PRC Docket No. N2011-1**. However, no person involved in competitive decision-making for any entity that might gain competitive advantage from use of this information shall be granted access to these materials. “Involved in competitive decision-making” includes consulting on marketing or advertising strategies, pricing, product research and development, product design, or the competitive structuring and composition of bids, offers or proposals. It does not include rendering legal advice or performing other services that are not directly in furtherance of activities in competition with a person or entity having proprietary interest in the protected material.
2. No person granted access to these materials is permitted to disseminate them in whole or in part to any person not authorized to obtain access under these conditions.
3. Immediately after access has terminated under 39 CFR 3007.41 or 3007.51, a person (and any individual working on behalf of that person) who has obtained a copy of these materials shall certify to the Commission: (a) That the copy was maintained in accordance with these conditions (or others established by the Commission); and (b) That the copy (and any duplicates) either have been destroyed or returned to the Commission.
4. The duties of each person obtaining access to these materials shall apply to material disclosed or duplicated in writing, orally, electronically, or otherwise, by any means, format, or medium. These duties shall apply to the disclosure of excerpts from or parts of the document, as well as to the entire document.
5. All persons who obtain access to these materials are required to protect the document by using the same degree of care, but no less than a reasonable degree of care, to prevent the unauthorized disclosure of the document as those persons, in the ordinary course of business, would be expected to use to protect their own proprietary material or trade secrets and other internal, confidential, commercially sensitive, and privileged information.

6. These conditions shall apply to any revised, amended, or supplemental versions of these materials provided in the matter identified as **PRC Docket No. N2011-1**.
7. The duty of nondisclosure of each person obtaining access to these materials is continuing, terminable only by specific order of the Commission, or as specified in paragraphs 9 and 10, below.
8. Each person granted access to these materials consents to these or such other conditions as the Commission may approve.
9. Any written materials that quote or contain materials protected under these protective conditions are also covered by the same protective conditions and certification requirements, and shall be filed with the Commission only under seal. Documents submitted to the Commission as confidential shall remain sealed while in the Secretary's office or such other place as the Commission may designate so long as they retain their status as stamped confidential documents.
10. If a court or other administrative agency subpoenas or orders production of confidential information which a person has obtained under the terms of this protective order, the target of the subpoena or order shall promptly (within 2 business days) notify the Postal Service of the pendency of the subpoena or order to allow it time to object to that production or seek a protective order.

Statement of Compliance with Protective Conditions

The Postal Service has filed non-public materials identified as **USPS-LRN2011-1/NP2** in Commission Docket No. **N2011-1**. The Postal Service requests confidential treatment of the materials (hereinafter “these materials”).

The following protective conditions apply to these materials identified as **USPS-LR-N2011-1/NP2** by the Postal Service. Each person seeking to obtain access to these materials must agree to comply with these conditions, complete the attached certifications, and provide the completed certifications to the Commission and counsel for the Postal Service.

11. Access to these materials is limited to a person as defined in 5(f), 39 CFR 3001.5(f), or an individual employed by such person, or acting as an agent, consultant, contractor, affiliated person, or other representative of such person for purposes related to the matter identified as **PRC Docket No. N2011-1**. However, no person involved in competitive decision-making for any entity that might gain competitive advantage from use of this information shall be granted access to these materials. “Involved in competitive decision-making” includes consulting on marketing or advertising strategies, pricing, product research and development, product design, or the competitive structuring and composition of bids, offers or proposals. It does not include rendering legal advice or performing other services that are not directly in furtherance of activities in competition with a person or entity having proprietary interest in the protected material.
12. No person granted access to these materials is permitted to disseminate them in whole or in part to any person not authorized to obtain access under these conditions.
13. Immediately after access has terminated under 39 CFR 3007.41 or 3007.51, a person (and any individual working on behalf of that person) who has obtained a copy of these materials shall certify to the Commission: (a) That the copy was maintained in accordance with these conditions (or others established by the Commission); and (b) That the copy (and any duplicates) either have been destroyed or returned to the Commission.
14. The duties of each person obtaining access to these materials shall apply to material disclosed or duplicated in writing, orally, electronically, or otherwise, by any means, format, or medium. These duties shall apply to the disclosure of excerpts from or parts of the document, as well as to the entire document.
15. All persons who obtain access to these materials are required to protect the document by using the same degree of care, but no less than a reasonable degree of care, to prevent the unauthorized disclosure of the document as those persons, in the ordinary course of business, would be expected to use to protect their own proprietary material or trade secrets and other internal, confidential, commercially sensitive, and privileged information.

16. These conditions shall apply to any revised, amended, or supplemental versions of these materials provided in the matter identified as **PRC Docket No. N2011-1**.
17. The duty of nondisclosure of each person obtaining access to these materials is continuing, terminable only by specific order of the Commission, or as specified in paragraphs 9 and 10, below.
18. Each person granted access to these materials consents to these or such other conditions as the Commission may approve.
19. Any written materials that quote or contain materials protected under these protective conditions are also covered by the same protective conditions and certification requirements, and shall be filed with the Commission only under seal. Documents submitted to the Commission as confidential shall remain sealed while in the Secretary's office or such other place as the Commission may designate so long as they retain their status as stamped confidential documents.
20. If a court or other administrative agency subpoenas or orders production of confidential information which a person has obtained under the terms of this protective order, the target of the subpoena or order shall promptly (within 2 business days) notify the Postal Service of the pendency of the subpoena or order to allow it time to object to that production or seek a protective order.